

BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

MISSISSIPPI REAL ESTATE COMMISSION

COMPLAINANT

VS.

NO. 011-1803

ARTHUR MINTON, JR., BROKER

RESPONDENT

AGREED ORDER

This cause came before the Mississippi Real Estate Commission, sometimes hereinafter "Commission," pursuant to authority of Miss. Code Ann. §§73-35-1, *et seq.*, as amended, on a formal complaint brought against Arthur Minton, Jr., Broker. Prior to the hearing before the Commission, the parties announced their agreement as to the allegations of the complaint and disciplinary action for the Respondent Arthur Minton, Jr., all as set forth herein. By entering into this Agreed Order, Respondent waives his right to a hearing with full due process and the right to appeal any adverse decision resulting from that hearing. Having reached an agreement on this matter, the Commission issues its Findings of Fact, Conclusions of Law and Disciplinary Order as follows:

FINDINGS OF FACT

I.

Respondent Arthur Minton, Jr., sometimes hereinafter "Respondent" or "Minton" is an adult resident citizen of Mississippi whose last known address of record with the

Commission is 1801 Crane Ridge Drive, Suite B, Jackson, Mississippi 39216. Respondent Minton is the holder of a real estate broker's license issued by the Commission pursuant to Miss. Code Ann. §§73-35-1, *et seq.*, as amended and, as such, he is subject to all of the provisions, rules, regulations and statutes governing the management and sale of real estate and licensing of real estate brokers under Mississippi law.

II.

On or about March 8, 2018, the Commission received a sworn complaint from James Otts, sometimes hereinafter "Otts." Otts complained that Respondent Minton had managed a rental property Otts owns at 5414 Ridgewood Rd. in Jackson. Minton managed Otts property from July, 2016 until November, 2017 when Otts terminated Minton's management of the property. Two tenants occupied the property during the period of Minton's management. The first tenant, Mayes, had a dog while he lived in the property and paid a single pet deposit.

III.

Otts complained that he had personally observed a second dog at the property and so informed Minton on or about December 20, 2016. Otts complained that there was only one authorized pet for the premises. Minton replied that he had inquired of Mayes regarding the second dog and had been informed that the second dog was owned by a family member who was visiting. Mayes vacated the property on or about June 5, 2017.

IV.

Otts complained that when Mayes vacated the property on or about June 5, Minton failed to report that Mayes had apparently spot sanded areas in an unsuccessful attempt to remedy numerous areas of damage to the wood floors that had been damaged by dog urine and feces. Minton reported that the damages were not readily visible when his office performed the move out inspection but Otts claimed the damages were obvious when he personally inspected the house thereafter.

V.

Information obtained during the Commission investigation reflects that the issue of the damaged floors was specifically brought to Minton's attention by the second tenant, Murphy, only four (4) days after Mayes vacated the property on June 5 and Minton's inspection that same day. In email correspondence dated June 9, 2017, Murphy stated "the wood floors are in really bad shape." Otts wanted the floors to be sanded/repared at Mayes' expense. Minton maintained that the new tenant, Murphy, accepted the condition of the floors as they existed and Minton believed it would be disruptive to undertake a sanding/refinishing project during Murphy's tenancy. Minton did agree that Mayes should be held responsible for the damaged floors.

VI.

Documents obtained during the Commission investigation reflect that Minton's office notified the former tenant Mayes on or about June 16, 2017 of his responsibility for

the damaged floors. Otts was notified that Minton's office was making calls to obtain bids for the repairs. Minton's records reflect his decision that Mayes would be invoiced for the damages and, if not paid, be "take[n] to court." Minton's records reflect that he continued to discuss with Otts the issue of estimates to repair the floors and his intention to present the estimate for same to the former tenant Mayes. A statement for Mayes outstanding charges, including the damaged floors, was dated August 24, 2017.

VII.

Documents obtained during the Commission investigation reflect that Respondent Minton had a conversation with attorneys for the former tenant Mayes on or about September 29, 2017. In a response to the Commission, Minton stated he had spoken to counsel retained by Mayes who had taken the position with Minton that any action against Mayes would be frivolous. A statement from Minton to the Commission reflects Minton decided that pursuing the matter in court with Mayes would "cost more in attorney and court fees, than we would stand to gain." Minton stated he believed Otts needed to refinish the floors anyway.

VIII.

Thereafter, Minton gave Otts a copy of the attorney's correspondence and asked Otts if he wanted to hire his own lawyer. Otts responded to Minton that they had discussed the matter and he reminded Minton of his prior statement that the matter would be pursued against Mayes in court. Minton replied that he only files suit in Justice Court but believed the matter was beyond his expertise since Mayes had already hired a lawyer. Respondent

Minton did not pursue the matter with the Justice Court. Otts thereafter terminated Minton's agency. In a response submitted during the Commission investigation, Minton stated that Otts terminated his agency before he could take any further action against the tenant Mayes.

CONCLUSIONS OF LAW

IX.

The Commission and Respondent agree that the above and foregoing actions and omissions, if proved at hearing before the Commission upon clear and convincing evidence, could constitute violations of the Rules and Regulations of the Mississippi Real Estate Commission and, more specifically, Rule 4.2 G (1) and (2) which provide, in relevant part:

Rule 4.2G "Fiduciary Responsibilities" are those duties due the principal (client) in a real estate transaction...

- (1) "Loyalty" –the agent must put the interests of the principal above the interests the agent or any third party.
- (2) "Obedience" –the agent agrees to obey any lawful instruction from the principal in the execution of the transaction that is the subject of the agency.

DISCIPLINARY ORDER

Upon agreement and consent of Respondent as to disciplinary terms and disposition of the matter in lieu of a hearing before the Commission and, having issued its

Findings of Fact and Conclusions of Law, the Commission hereby issues its Disciplinary Order as follows:

1. The license of Respondent Arthur Minton, Jr. will be suspended for a period of one (1) month, held in abeyance. During the period of suspension in abeyance, Respondent Minton will be permitted to continue the practice of real estate in the State of Mississippi insofar as he complies with all Mississippi Real Estate Commission statutes, rules and regulations and terms of this Agreed Order; and
2. Following the period of suspension held in abeyance, Respondent's license will be placed on probation for a period of five (5) months; and
3. During the period of suspension held in abeyance, Respondent shall complete eight (8) hours of mandatory continuing education: four (4) hours Agency, two (2) hours Contract Law and two (2) hours License Law. All courses shall be approved by the Commission prior to being taken and must be administered by a Commission approved continuing education provider in a classroom setting. The mandatory continuing education hours shall be in addition to any continuing education hours required for renewal of Respondent's license and shall not be the same continuing education course from the same provider previously completed for the renewal of Respondent's license during the last two (2) renewal periods. Respondent shall furnish to the Commission written evidence of the satisfactory completion of the required courses.

4. This Agreed Order shall be effective upon the date it is executed by the Commission.

THIS the 8th day of March, 2019.

MISSISSIPPI REAL ESTATE COMMISSION

BY:

Robert E. Praytor
ROBERT E. PRAYTOR, Administrator

AGREED:

Arthur Minton, Jr. DATE 3-8-19
ARTHUR MINTON, JR.

